

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

ACADEMY FOR ACADEMIC  
EXCELLENCE.

OAH CASE NO. 2013080182

ORDER GRANTING REQUEST FOR  
CONTINUANCE AND SETTING  
MEDIATION, PREHEARING  
CONFERENCE AND DUE PROCESS  
HEARING

On August 2, 2013, Student filed a request for due process hearing and a motion for stay put. The matter was set for hearing on September 25, 2013. The stay put motion was denied on August 9, 2013. Between August 6, 2013, and September 5, 2013, the parties attempted, but were unable to schedule a mutually agreeable time for a resolution session. Student's counsel filed a Notice of Withdrawal on September 10, 2013. On September 16, both parties filed separate requests to continue the due process hearing. Student's request was made on the grounds she was not ready to proceed and, although Student was attempting to retain counsel, counsel was not able to proceed on the current dates. District did not oppose a brief continuance to permit Student to retain counsel and requested a continuance so that the parties could participate in a resolution session.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Granted. All dates are vacated. This matter will be set as follows:

Mediation:	October 8, 2013, at 9:30 a.m.
Prehearing Conference:	October 21, 2013 at 1:00 p.m.
Due Process Hearing:	October 30-31, 2013, at 9:00 a.m., and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: September 17, 2013

/s/

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MARIAN H. TULLY  
Administrative Law Judge  
Office of Administrative Hearings